



City Manager's Office
City of Frisco, Texas

Memorandum

To: Honorable Mayor Maso and Members of the Frisco City Council

Cc: George A. Purefoy, City Manager
Henry Hill, Deputy City Manager
Nell Lange, Assistant City Manager
Ron Patterson, Assistant City Manager

From: Amy Gill

Date: 01/09/2009

Agenda Caption: Consider and act upon approval of a resolution suspending the effective date of CoServ Gas Ltd.'s requested rate changes. (CMO/AG)

Action Requested: Suspension of effective date of CoServ Gas rate increase to allow the City time to evaluate the filing, determine whether the filing complies with the law, and if lawful, to determine what further strategy, including settlement or litigation, to pursue.

The resolution also authorizes the City to work together with other cities served by CoServ to investigate the rate increase request, negotiate with the Company, intervene and participate in the litigation of any necessary administrative proceedings or court litigation related to an appeal of city action taken regarding the Company's filing.

If the City does not take action to suspend the filing, CoServ may begin charging increased rates after January 23, 2009.

Background Information:

On December 18, 2008, CoServ Gas Ltd. ("CoServ" or "Company") filed with the City a Statement of Intent to Increase Rates. CoServ asks the City to approve

rate changes expected to increase Company revenues by \$2.9 million, an overall total revenue increase of approximately five percent (5%).

CoServ's most recent rate case was filed by the Company in 2004. The City, participating in a coalition with other cities served by CoServ, ultimately settled the CoServ's rate request in 2005, reducing the Company's requested increase by more than fifty percent.

Purpose of the Resolution:

The law provides that a rate request made by a natural gas utility cannot become effective until 35 days following the filing of the application to change rates. The law permits the City to suspend the effective date for 90 days. The resolution suspends the January 23, 2009 effective date of the Company's rate increase for the maximum period permitted by law.

Explanation of "Be It Resolved" Paragraphs:

Section 1. The city is authorized to suspend the January 23, 2009 effective date for 90 days for any legitimate purpose. Please note that the resolution refers to the suspension period as "the maximum period allowed by law" rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction, if necessary, to reach settlement of the case. If the suspension period is not increased by the Company, the City must take final action on CoServ's request to raise rates by April 23, 2009.

Section 2. Negotiating clout and efficiency is enhanced by the City cooperating with other cities served by CoServ in a common review and common purpose. Additionally, rate case expenses are minimized when the cities hire one set of attorneys and experts to investigate the Company's filing. This provision authorizes the City to participate with other cities in the investigation of the Company's rate increase request, settlement discussions, and in any appeal of an action taken by the city. Any settlement negotiated by the coalition of cities must be approved by all city councils through new rate ordinances.

Section 3. Cities are statutorily entitled to recover their reasonable rate case expenses from the utility. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and where the consideration of the Resolution was properly noticed.

Section 5. This section provides that both CoServ and counsel for the coalition of cities will be notified of the City's action by sending a copy of the approved and signed resolution to certain designated individuals.

Board Review/Citizen Input: N/A

Alternatives: Do not approve resolution and allow the rate increase to go into effect.

Financial Considerations: No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Legal Review: Resolution drafted by CAPP attorneys.

Supporting Documents:

- Resolution

Staff Recommendation: Approval.